

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA

UNITED STATES OF AMERICA,

Plaintiff,

v.

BRENNON J. NASTACIO,
a/k/a BRAVO ONE,

Defendant.

Case No. 1:17-CR-030-2

**UNITED STATES' SENTENCING
MEMORANDUM**

The United States of America, by Drew H. Wrigley, United States Attorney for the District of North Dakota, and Gary L. Delorme, Assistant United States Attorney, has no objections or corrections to the Presentence Investigation Report in this case.

Brennon Nastacio ("Nastacio"), a/k/a Bravo One, was indicted on February 1, 2017 for conduct related to a civil disorder and the use of fire to a federal felony offense. The conduct, more specifically, involved Nastacio, and his co-defendants, creating several large roadblocks consisting of dead trees, wood and other lumbar, as well as tires on the west side of the County Road 134 bridge just a few miles west of Highway 1806 in an effort to deny state and local law enforcement the ability to clear protestors from Highway 1806 and other private properties. The roadblocks were ignited by the defendant and his counterparts on October 27, 2016.

During the blaze that ensued, the entirety of the encampment, including several vehicles, that was located on the bridge went up in flames. As is indicated in the PSR, Nastacio was one of the individuals seen with a gas container pouring what appeared to be gasoline on the materials that made up the roadblock.

Nastacio was one of several known leaders in the protest movement. As an identified leader Nastacio took on the call sign of “Bravo One” for identification over the radio systems then being utilized by the protestors. Like Michael Markus, Nastacio was identified as a leader due to his willingness to agitate and provoke illegal and violent conduct aimed at law enforcement and to some extent at workers employed by the Dakota Access Pipeline.

The United States understands the PSR indicates that Nastacio’s guidelines range is 37-46 months based upon an adjusted offense level of 21 and a CHC of I. The Plea Agreement allows the United States to recommend a sentence of up to 36 months.

The United States will be recommending at sentencing a term of imprisonment of 36 months, to be followed by 36 months of supervised release.

Nastacio was a leader in a protest that often, and far too quickly, turned to violence and destruction in a bid to get what they wanted. While Nastacio’s leadership level was likely just below that of Michael Markus, he was identified time and again as being an active participant in very dangerous confrontations between protesters and law enforcement.

Michael Markus, as a leader of the some of the more confrontational events, received a sentence of 36 months imprisonment. Dion Ortiz, Nastacio’s nephew and one who could only be identified as a low-level follower of the movement was sentenced to 16 months imprisonment. James White, a participant of this unlawful event, was given a time-served sentence. However, that was due in large part to concerns that White’s

mental capabilities made him more susceptible to being a naïve participant incapable of determining the true unlawful extent of his actions.

The United States understands that Nastacio has appeared to have complied with conditions of release for some 17 months. There are some indications on social network postings that may suggest otherwise. Be that as it may, the United States is sticking to its recommendation of 36 months imprisonment due in large part to the amount of damage and turmoil caused not only during this event, but also throughout the protests. Fires, such as the one set by Nastacio, in October in North Dakota when the plains grasses and the crops are all dried out or drying, could have resulted in a brush fire that could have affected hundreds if not thousands of acres of land while placing law enforcement, protesters, and other law abiding folks at risk of serious injury or death,

Dated: September 21, 2020

DREW H. WRIGLEY
United States Attorney

By: /s/ Gary L. Delorme
GARY L. DELORME
Assistant United States Attorney
ND Bar ID 05845
P.O. Box 699
Bismarck, ND 58502-0699
(701) 530-2420
gary.delorme@usdoj.gov
Attorney for United States